

APPROVED APRIL 14, 2009

COMMONWEALTH OF KENTUCKY

KENTUCKY BOARD OF HOME INSPECTORS

101 Sea Hero Road

Suite 101

Frankfort, Kentucky 40601

March 10, 2009

9:00 A.M.

Members Present:

D. Michael Green, Chair
Michael Patton, Vice Chair
Richard Flora
Ralph Wirth
Linda Swearingen
Mark Schmidt
James R. Bone
Mike Powers, Proxy for Commissioner Richard Moloney.

Member Absent:

William Welty, Sr.

Staff Present:

Michael Bennett, Staff Attorney
Wendy Anderson, Secretary

Guests:

Tara Green
Jim Ball, KREIA
Don Gaines, A-Pass Weikel
Carolyn Quisenberry, A-Pass Weikel
Steven Keeney, PLI4U
Lorri Keeney, PLI4U

Chair called the meeting to Order at 9:15 A.M.

Last Meeting Minutes

Chair instructed the Board to look over the February 17th minutes and called for changes. Changes were made.

Ralph Wirth inquired about records retention. Staff Attorney Michael Bennett said licensing divisions were on an "indefinite period". He defined "indefinite period" as

continuous until an event occurred. In general, records were held between three to five years. Minutes were on the general records retention schedule, but he will confirm this at the next meeting.

Michael Patton moved the Board to approve the February 17, 2009 minutes. Mark Schmidt seconded the Motion. The Motion passed unanimously.

The Chair instructed the guests to introduce themselves for the Digital Voice Recorder

Formation of an Ethics Committee

The Chair referenced the Steve Keeney letter submitted in last month's meeting. The Chair had the following remarks: He believed every member of the Board performed "tasks admirably and above reproach". He believed no conflict of interest occurred. Mr. Bennett summarized the letter from the general counsel of KREIA. The general counsel presented his arguments and advised the Board not to speak for KREIA. The Chair said the Board would not discuss the ethics of individuals. He recommended the formation of a committee to review the letter and make recommendations to the full Board. Mr. Wirth inquired what would happen if a board member were found to act unethically. Mr. Bennett said by statute, the board member would be removed. Mr. Wirth believed this letter should not be addressed until the next meeting. The Chair agreed.

Mr. Schmidt was curious about a Board Code of Ethics. Mr. Bennett advised Mr. Schmidt there was an Executive Cabinet Code of Ethics, but this Board fell outside of it. However, there was a Kentucky Board of Home Inspectors Code of Ethics. The 2006 Kentucky Board of Home Inspector Code of Ethics was current. Although Mr. Bennett stated not every board member had reviewed the Code of Ethics, the Board was bound by it. The Chair believed it was morally wrong to hold members accountable without reviewing the document.

Mr. Wirth moved the Board to form an ethics committee. Mike Powers seconded the Motion. The Board voted unanimously to form an ethics committee.

The Chair recommended Linda Swearingen to be chair of this committee. Mark Schmidt and Richard Flora volunteered to be on the committee. Then, the Chair questioned whether the committee should review and make recommendations on the entire letter or only the individuals cited in the letter. Mr. Powers advised they should review the individual ethical issues.

Mr. Schmidt suggested to the Board that a packet be provided to new members of the Board. The Chair said the staff provided a packet in the past, but not recently. The Chair instructed the staff to supply a new member packet. Staff noted the request. Then Mr. Schmidt suggested the Board sign the current Code of Ethics. Each Board member received the current Code of Ethics. Assuming a board member was found to act unethically, Mr. Schmidt inquired whether a Board member could appeal the decision. Mr. Bennett was unsure, but he would have the answer at the next meeting. He also said he would review the open meetings law to advise whether a committee was required to hold an open meeting.

Mr. Wirth moved the Board to continue to use the 2006 Code of Ethics. Richard Flora seconded the Motion. The Motion carried unanimously.

The Chair instructed the members of the Board to read, sign and date the 2006 Code of Ethics.

Ratifying KREIA as a Continuing Education Provider

The Board approved KREIA January 2009. However, KREIA had not complied with 815 KAR 6:040 section 5, (1).

Mr. Powers moved the Board to ratify the KREIA approval dated January 12, 2009 (course entitled “Home Inspectors – Working for Profit” for two credit hours). Ms. Swearingen second the Motion and Mr. Powers discussed the issue. He said, “It seems that the application, as submitted, was incomplete. Pursuant to the Board’s approval of the course at its meeting on January 13, 2009, HBC issued a number for the course and it was taught last weekend at KREIA sponsored seminar. The syllabus and outline were submitted prior to the time, the class was taught. The persons taking the course acted in good faith upon this Board’s approval as did their vendor – KREIA. They should not be penalized by the mistake of this Board”.

The Chair said the documents were in place, but Mr. Powers disagreed. Mr. Powers said the outline and syllabus were not presented for the January meeting pursuant to 815 KAR 6:040 section 5 (1). Mr. Powers maintained he moved and said discussion because the application was completed a week ago; not at the January meeting. Mr. Steve Keeney said if the Board ratified this, the 90 days began to run March 10. Mr. Wirth wanted further discussion. He questioned if the Board ratified the class at the March meeting, what would happen to those who took the class the weekend before the March board meeting? The problems presented were: 1) The class was not suppose to be approved at the January meeting, and 2) the “90 day rule” should be observed before a class was offered. Mr. Bennett advised the “90 day rule” was part of the instructions for the continuing education providers and was incorporated in 815 KAR 6:040. The Board decided to revisit this issue in the future. The Chair called for a vote for ratification. The vote was 7 – 1 with Mr. Flora voting against ratification.

Mr. Flora discussed whether the Board should void the two hours from the inspectors who sat for the class last weekend (March 6 and 7). Mr. Wirth moved the Board to void the KREIA business course (March 6 or 7). Mr. James Bone cautioned the Board not to take this step. He said if the Board decided to strip credits from the students, then it would have to be done to every continuing education provider in a similar situation. The Chair requested another alternative. Mr. Schmidt said it would be a burden to those who took the class because not only had they paid for the class, they had to travel to Frankfort and they had to miss work to take the class. Therefore, the students should be awarded the credits. The Chair requested a second to Mr. Wirth’s Motion. No one seconded. Motion died due to a lack of a second.

Jim Ball of KREIA advised the Board the class would not be taught again until October. Therefore, Mr. Flora moved the Board to not allow KREIA to teach the class for 90 days starting March 10, 2009. Mr. Schmidt seconded the Motion. The Motion carried unanimously.

Advisory Bulletin

Mr. Bennett had not prepared the latest advisory bulletin and will have it ready for the next meeting.

Mr. Patton “dropped the ball” with manufactured housing. He was suppose to prepare an advisory bulletin with them.

Review Inspection Reports

No action had been taken on this issue

Complaints – Rumancik

Mr. Powers advised the Board of the HVAC/Plumbing investigation of Mr. Rumancik. He said the investigators did not discover Rumancik brochures from real estate offices in Garrard, Jessamine, Mercer and Boyle counties, but he advertised in phonebooks under “home inspection.” One person was willing to swear out an affidavit. No other real estate personnel would talk about Mr. Rumancik.

Mr. Wirth had some information on Mr. Rumancik but was not willing to disclose it in public.

New Home Inspector Approvals

The following were approved new home inspectors:

James Williams
Gordon MacPherson
Glen Thompson
Guy Carpenter
John Scott
Thomas Waggner

Mr. Bone moved the Board to approve these new home inspectors. Ms. Swearingen second the Motion and the vote carried unanimously.

The following were not approved:

Cory Kern –Required to produce a syllabus of his pre-licensing class including the 16 hours of lab/field work and the 16 hours of Kentucky specific courses (Kentucky law and regulations, Manufactured Housing and Standards of Practice).

Mr. Wirth moved the Board to deny Mr. Kern a license. Mr. Flora second the Motion and the Motion carried unanimously.

William Troutman – Required to produce a syllabus to the Board including the 16 hours of field/lab work, 16 hours of Kentucky specific courses (Kentucky law and

regulation, Manufactured Housing and Standards of Practice). He was required pass a Board certified exam. The exam he passed was over three years old. 815 KAR 6:101 section 2, (b) (5).

Mr. Bone moved the Board to deny Mr. Troutman of a home inspector license. Mr. Flora seconded the Motion and it passed unanimously.

License Renewals

Mike Morley

Mr. Morley was required to submit his renewal license within a year and was prorated for the 2009 year. He was not required complete continuing education classes, and had not completed a paid home inspection. The regulation required a completed, paid home inspection. The Board believed a complete paid home inspection was important. Mr. Powers moved the Board to approve Mr. Morley as long as he completed a paid home inspection by May 23, 2009. If Mr. Morley failed to complete a paid home inspection, then Mr. Morley's license would be revoked. Mr. Schmidt seconded the motion and it carried unanimously.

The following inspectors were approved as of March 10, 2009. Mr. Flora moved for approval and Mr. Patton seconded the Motion. Motion passed unanimously.

Sandra Virgin
James Curry
Fredrick Newton
Adam Nelson.

Continuing Education Provider Approval

A –Pass Weikel submitted a continuing education class for 14 hours. In the middle of the evaluation, the Chair noticed the application was for a pre-licensing course provider instead of a continuing education provider. The Chair advised A-Pass Weikel to complete the application for a continuing education course. Mr. Wirth moved the Board to approve the course contingent the application was the proper application completed within 48 hours. Ms. Swearingen second the Motion and it passed unanimously. Don Gaines of A-Pass Weikel completed the proper form and faxed it to Louisville for the signature of a duly authorized official. The form was executed and returned prior to the end of the meeting.

Complaint Committee

Mr. Patton introduced HIC 08-12-29-02. The consumer alleged the inspector had not inspected the chimney. The inspector said he was unable to calculate the damage because of an insert in the fireplace – he was unable to look at the flues. The inspector informed the consumer to have someone else look at it. The committee found this complaint had no merit and should be dismissed. Mr. Patton moved the Board to dismiss

this complaint. Ms. Swearingen seconded the Motion and the Board unanimously dismissed the complaint.

Mr. Steve Keeney questioned whether complaints could be published. He suggested the committee disclose a summary of the complaint and the committee's recommendations. Ms. Swearingen moved the Board to follow Mr. Keeney's recommendation. Mr. Bone seconded the Motion and the Motion carried unanimously.

Proposed Bylaws

Mr. Bennett advised the Board of the proposed bylaws. He said articles five and seven were parliamentary procedures. Mr. Wirth questioned why the Board needed bylaws. Mr. Bennett said since the Board had turnover, bylaws would be a proper tool for future boards. The Chair believed it was a way to create better structure to the Board.

However, Mr. Keeney disagreed. He thought it was a well-meaning to create bylaws. He questioned why the Board would want to rewrite statutes. Instead, Mr. Keeney believed the statutes should be incorporated into the bylaws instead of regurgitated. Mr. Powers moved the Board to table this issue to the next meeting. Mr. Wirth seconded the Motion. The Motion carried unanimously.

Board Sponsored Continuing Education

Mr. Schmidt advised the Board there are approximately 380 home inspectors in the Commonwealth of Kentucky. There were 268 inspectors between Louisville, Lexington and Northern Kentucky or "the Triangle". There were 61 home inspectors in Western Kentucky and 43 in Eastern Kentucky. The state parks which could accommodate these classes would be General Butler State Park, Lake Cumberland, Lake Barkley, Kenlake, or Kentucky Dam Village. The General Butler and Lake Cumberland sites are probable, but the third location had yet to be determined. The Chair questioned how to bid continuing education providers. Mr. Bennett said he would consult with Mr. Cebert Faulkner and would report his findings at the next meeting.

Mr. Wirth questioned whether they could hold board meetings and the HBC staff would travel to the continuing education site. At first, the Chair believed it would be a good idea. The Chair thought staff would have to be at the continuing education classes, so they could also staff the board meetings. Mr. Wirth suggested to have the continuing education provider supply staff. Then he moved the Board to continue to have meetings in Frankfort. Mr. Flora seconded the Motion and it carried unanimously.

Mr. Patton suggested a couple of board members attend the continuing education meetings. He believed it was a good way to have face-to-face interaction with home inspectors. Mr. Flora moved the Board to have two members of the Board attend each meeting and they will be assigned two weeks before the meeting commences. Mr. Bone seconded the Motion and it carried unanimously.

Regulation

Note: All modifications of 815 KAR 6:010 were discussed and reached consensus.

815 KAR 6:010 changes.

Mr. Wirth cited page 8, line 12. He questioned where was section 10? Mr. Bennett said there was no longer a section 10 and he would correct it.

Mr. Wirth cited page 9 line 14. It should have said, "Board approved 64 hour pre-licensing course in lieu of 70 hours".

Mr. Flora inquired about expired v. escrow status. Mr. Bennett explained to Mr. Flora each year an inspector had his license in escrow, the inspector was required to complete 14 hours of continuing education. If his license was in escrow for a sixth year, then his license would expire.

Mr. Patton inquired about page 2, line 8 on the grandfather language. 198B.786 expired. Therefore, this language should be deleted.

Mr. Flora questioned whether 30 days would be too long for an inspector a change an address. The consensus was to change it to 10 days.

Further, there was debate whether 30 day name change was too long. However, no one could agree so it was tabled to next meeting.

Adjournment

Mr. Powers moved the Board to adjourn. Ms. Swearingen seconded the Motion.

NEXT MEETING: TUESDAY APRIL 14TH AT 9:00 AM